

**REMARKS**

Claims 1 to 63 were pending in the above-identified application. This Amendment amends claims 1, 3, 9 to 12, 14, 18, 25, 27 to 29, 32, 35, and 55, and cancels claims 8 and 24.

**§102 Rejections**

The Examiner rejected claims 1, 2, 18, and 19 under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,187,211 ("Smith et al.").

Applicant has amended independent claim 1 with the limitations of claim 8, which the Examiner has indicated as patentable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Accordingly, Applicant submits that amended claim 1 is now in condition for allowance.

Claim 2 depends from amended claim 1 and is patentable for at least the same reasons as claim 1.

Applicant has amended independent claim 18 with the limitations of claim 24, which the Examiner has indicated as patentable if rewritten in independent form including all of the limitations of the base claim and any intervening claim. Accordingly, Applicant submits that amended claim 18 is now in condition for allowance.

Claim 19 depends from amended claim 18 and is patentable for at least the same reasons as claim 18.

**§103 Rejection**

The Examiner rejected claim 3 under 35 U.S.C. 103(a) as being unpatentable over Smith et al. in view of U.S. Patent No. 6,599,666 ("Rolfson").

Claim 3 depends from amended claim 1 and is patentable over Smith and Rolfson for at least the same reasons as claim 1. Furthermore, Smith et al. does not disclose that the first phase shifting layer can be either amorphous silicon (a-Si) or silicon nitride (Si<sub>3</sub>N<sub>4</sub>) as recited in claim 3. Instead, Smith et al. discloses that preferably "the material used to form the Fresnel lens is silicon

oxynitride (SiON)." Smith et al., col. 4, lines 25 and 26 (emphasis added). Thus, claim 3 is patentable over the combination of Smith et al. and Rolfson.

#### Allowable Subject Matters

The Examiner objected to claims 4 to 17 and 20 to 32 as being dependent upon a rejected base claim but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claim.

As discussed above, Applicant has canceled claim 8 and added its limitations to claim 1. Claims 4 to 7, 9, and 10 depend from amended claim 1 and are patentable for at least the same reasons as claim 1.

Applicant has amended claims 11 and 12 to independent form as suggested by the Examiner. Accordingly, claims 11 and 12 are in condition for allowance.

Claims 13 to 17 depend from claim 12 and are patentable for at least the same reasons as claim 12.

As discussed above, Applicant has canceled claim 24 and added its limitations to claim 18. Claims 20 to 23, 25, and 26 depend from claim 18 and are patentable for at least the same reasons as claim 18.

Applicant has amended claims 27 and 28 to independent form as suggested by the Examiner. Accordingly, claims 27 and 28 are in condition for allowance.


Claims 29 to 32 depend from claim 28 and are patentable for at least the same reasons as claim 28.

#### Allowed Claims

Applicant thanks the Examiner for allowing claims 33 to 63.

In summary, claims 1 to 63 were pending in the above-identified application. This Amendment amends claims 1, 3, 9 to 12, 14, 18, 25, 27 to 29, 32, 35, and 55, and cancels claims 8 and 24. For the above reasons, Applicant respectfully requests allowance of claims 1 to 7, 9 to

23, and 25 to 63. Should the Examiner have any questions, please call the undersigned at (408) 382-0480.

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Respectfully submitted,



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Claim 41 (original): The method of claim 39, further comprising:

bonding a submount to the bonding ring to form a package.

Claim 42 (original): The method of claim 33, wherein said etching a second surface of the silicon substrate further comprises removing all of the silicon substrate.

Claim 43 (original): A diffractive lens, comprising:

a transparent substrate being transmissive to a light wavelength selected from infrared to ultraviolet;

a planarization layer below the transparent substrate;

a diffractive optical element below the planarization layer; and

an etch stop layer below the diffractive optical element.

Claim 44 (original): The diffractive lens of claim 43, wherein the transparent substrate comprises a material selected from the group consisting of quartz, Pyrex, and sapphire.

Claim 45 (original): The diffractive lens of claim 43, wherein the diffractive optical element comprises at least two phase shifting layers separated by another etch stop layer.

Claim 46 (original): The diffractive lens of claim 43, further comprising:

a bonding layer between the transparent substrate and the planarization layer.

Claim 47 (original): The diffractive lens of claim 43, further comprising:

an antireflective layer between the etch stop layer and the diffractive optical element.

Claim 48 (original): The diffractive lens of claim 43, further comprising:

a bonding ring below the etch stop layer.

Claim 49 (original): The diffractive lens of claim 48, further comprising:

a bonding pad on the bonding ring.

Claim 50 (original): The diffractive lens of claim 48, further comprising:

a submount bonded to the bonding ring to form a package.